

APPLICATION: MA/10/1555 Date: 1 November 2010 Received: 8 April 2011

APPLICANT: Mr Bill Lee

LOCATION: STILEBRIDGE Paddock, STILEBRIDGE LANE, LINTON, KENT

PARISH: Boughton Monchelsea, Linton

PROPOSAL: Use of land for the stationing of two mobile homes and two touring caravans for gypsy/traveller occupation and the keeping of horses plus erection of stables, two utility/day rooms, hardstanding and septic tank as shown on drawing nos. MAI/10/PL/01, 02, 03 and 04 received on 30/9/10.

AGENDA DATE: 30th June 2011

CASE OFFICER: Geoff Brown

The recommendation for this application is being reported to Committee for decision because:

- it is contrary to views expressed by Linton Parish Council which has requested Planning Committee consideration

## **1. POLICIES**

- Maidstone Borough-Wide Local Plan 2000: ENV6, ENV28, ENV46
- The South East Plan 2009: CC1, CC6, C4, H4, NRM5
- Government Policy: PPS1, PPS3, PPS7, PPS9, Circular 1/2006

## **2. HISTORY**

None directly relevant to the type of application proposed. There is a substantial planning history but that involves a series of applications for agricultural/equestrian usage by a previous owner.

## **3. CONSULTATIONS**

LINTON PARISH COUNCIL OBJECTS and requests committee consideration. The comments read:

"The members of the Linton Parish Council have now had the opportunity to see this Application and have visited Stilebridge Lane to see this development and others along the lane. They are very concerned at the work that has ALREADY BEEN UNDERTAKEN on the site without as far as they are aware any

authorisation. There is little or no justification for such a development .... the entire character of the area is being changed ..... before too long the whole lane will be a caravan park.

The Linton Parish Council STRONGLY recommends that this application in FIRMLY REFUSED and wishes it to be referred to the Planning Committee"

BOUGHTON MONCHELSEA PARISH COUNCIL (THE NEIGHBOURING PARISH) OBJECTS. The comments read:

"The Boughton Monchelsea Parish Council would like to see the above application REFUSED because the proposed development would cause significant and irreversible harm to the character and appearance of the open countryside. The proposal is therefore contrary to policy ENV28 which is the sole applicable policy of the development plan.

We also consider the proposed development is clearly not in accordance with the development plan. Policy ENV28 states that planning permission will not be granted for development which harms the character and appearance of the area, and that development on countryside will be confined to specific types of development. The proposed development does not satisfy any of these exception criteria set out in the policy.

The development thereby constitutes a departure from the development plan. The consultation on the application should therefore be recommenced and advertised as a departure from the development plan, and the application should be referred to the Secretary of State.

Specifically, the Boughton Monchelsea Parish Council objects because:

1. Development for gypsy and traveller sites on countryside land is not appropriate under the Development Plan except under exceptional circumstances and those circumstances do not apply to the current application as the proposals are contrary to policy ENV28 of the Maidstone Borough –Wide Local Plan 2000.
2. The development, if permitted, would result in visually intrusive and unjustified residential development within open countryside, contrary to Policy ENV28 of the Maidstone Borough Wide Local Plan 2000 and Policies CC1,CC6 and C4 of the South East Plan 2009.
3. The Council is aware of Circular 01/2006 which refers to gypsy and traveller caravan sites. The Circular is a material consideration but does not form part of the development plan, is not planning policy and does not over-ride, supersede or circumvent planning policy. The Circular provides non-statutory advice and guidance on the application of planning policy. The Circular is also under review by the Secretary of State who is concerned that it is unfair, and inappropriate application of the Circular has resulted in local planning authorities being

“forced” to grant planning permission for development of greenfield land. The Secretary of State also acknowledges that gypsies and travellers have abused the planning system and greater enforcement powers are required to enable action to be taken where the system is abused. We therefore consider limited weight should be applied to the policy and that approval of permission on the grounds of the Circular would be entirely unreasonable.

4. The applicant moved in without discussing with the local planning authority the likelihood of planning consent being obtained. This is contrary to advice that applicants are required to seek to establish good communications with members of the local community and obtain planning permission first. The Secretary of State has made public his view that this type of underhand tactic is unacceptable and should not be rewarded by special treatment; that the planning system is being taken advantage of by people who deliberately develop without permission and seek retrospective permission on the assumption that applications are viewed differently once the use is established.
5. The proposed development fronts onto Stilebridge Lane which is a quiet rural lane. Any development with permitted access onto Stilebridge Lane would significantly harm the character and appearance of the lane and would be contrary to Policy ENV36 of the Maidstone Borough Wide Local Plan 2000. The proposed development would introduce unjustified additional traffic onto a rural lane which will affect its character contrary to Policy NRM10 of the South East Plan 2009.
6. The effect of the development on the ecology of the area has not been properly considered, but there will certainly be some negative impacts. Large areas of impermeable surfacing have been laid where previously there were none which may affect the local eco-system. No investigation has been carried out to establish the effect of this. Permission cannot be granted until more evidence is submitted on the potential impacts and what mitigation can be offered to ensure no significant harm is caused.
7. The Parish Council expects the planning authority to rigorously vet the status of the applicants and their partners to determine if they fully qualify for the gypsy status they claim.
8. The availability of alternative accommodation for travellers is being addressed by the local authority and the provision of this should be awaited before any decision which would cause irreparable harm to the open countryside is taken.
9. The Parish Council acknowledges the need for accommodation to be found for travellers but urges the Borough Council to be circumspect, especially given the recent publicity regarding Circular 01/2006 and the weight that should be applied to it. The granting of planning permission for this application would cause irreversible loss of rural land.”

KENT HIGHWAY SERVICES comments that the traffic generated by the proposed use would not be high and speeds along Stilebridge Lane are low due to its narrow width. The development would not lead to capacity or safety problems and there are no objections provided the entrance gates are set back from the

carriageway. Visibility at the point of access could be improved by the trimming back of vegetation.

THE KCC BIODIVERSITY PROJECTS OFFICER agrees with the ecological statement submitted with the application that the development is unlikely to have resulted in adverse ecological impacts and further surveys are not required. Biodiversity enhancements are possible through the proper management and enhancement of hedgerows.

#### **4. REPRESENTATIONS**

LETTERS OF OBJECTION HAVE BEEN RECEIVED FROM PROTECT KENT AND ONE LOCAL HOUSEHOLD. The following points are raised:

- a) The development would spoil the character of the countryside and contribute to an over-concentration of caravans in this area.
- a) There would be an adverse impact on community harmony.
- b) It is not clear what kind of horses would be kept or for what purpose.
- c) Stilebridge Lane could not cope with the additional traffic. Loose animals from the site already cause a traffic hazard.
- d) The site generates noise and disturbance.
- e) How would services be provided?

#### **5. CONSIDERATIONS**

##### **5.1 Site Description**

- 5.1.1 The application site is located in open countryside (wholly within Linton Parish) off the east side of Stilebridge Lane approx. 500m east of the A229. The land here is not the subject of any particular landscape designation. The site is roughly triangular in shape and, before development commenced, involved simply a vehicular access at the northern end leading to an agricultural barn with grassed paddocks south of that barn. Land hereabouts is gently undulating farmland.
- 5.1.2 The area of the whole application site (including that earmarked for the keeping of horses) is approx. 0.8ha. The development has already commenced with a mobile home and a tourer (both seem occupied) on site at present on a hardstanding of roadstone at the northern end of the site, with grassed paddocks in the southern half grazed by horses. There are tall, thick, well-established hedgerows to the east and west sides of the application site. Open agricultural land lies to the north and east, with paddocks to the south and the lane to the west.

## **5.2 Proposal**

- 5.2.1 This application proposes a change of use of agricultural land to the establishment of a caravan site for occupation by two gypsy families. This involves a utility block, a mobile home and a touring caravan for each family arranged in two lines, aligned north/south, on a hardstanding area in the northern half of the site. To the south of the caravans would be a small, 'L-shaped' stable block (three stable units and a tack room) of weatherboarding under a tiled roof. The stable block would be approx. 2.4m to eaves and 3.7m to ridge. The application also seeks permission for the keeping of horses, hence the inclusion of grassland in the southern part of the site within the application site.
- 5.2.2 The heads of the two families are two brothers: Bill and Wes Lee. Bill has a wife and four young children; Wes a wife and two young children. The application states that the family has links to Kent and have always travelled as their way of life. They carry out landscaping works and buy and sell horses. They have been searching for sites for several years, having 'doubled up' on sites on occasion.

## **5.3 Principle of Development**

- 5.3.1 There are no saved Local Plan policies that relate directly to this type of development. Policy ENV28 of the Local Plan relates to development in the countryside stating that:
- "Planning permission will not be given for development which harms the character and appearance of the area or the amenities of surrounding occupiers"
- 5.3.2 ENV28 then outlines the types of development that can be permitted. This does not include gypsy development: this was previously formally covered under housing policy H36 but this is not a 'saved' policy.
- 5.3.3 There is no specific gypsy accommodation policy in The South East Plan 2009 although Policy H4 makes reference to providing accommodation for gypsies and therefore there is no need to advertise this application as a departure from the Development Plan. Policy CC1 concerns sustainable development and ensuring the physical and natural environment of the South East is conserved and enhanced. Policy CC6 outlines that actions and decisions associated with the development and use of land should respect, and where appropriate enhance, the character and distinctiveness of settlements and landscapes. Policy C4 concerns landscape and countryside management, essentially outlining that outside nationally designated landscapes, positive and high quality management of the region's open countryside will be encouraged, protected and enhanced, securing appropriate mitigation where damage to local landscape character cannot be avoided.

5.3.4 PPS7: Sustainable Development in Rural Areas outlines at paragraph 15 that:

“Planning authorities should continue to ensure that the quality and character of the wider countryside is protected and, where possible, enhanced.”

5.3.5 PPS4 is also considered relevant, as whilst it relates to economic development, it provides the Government’s most recent stance on the protection of the countryside at Policy EC6 –

“Local Planning Authorities should ensure that the countryside is protected for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all.”

5.3.6 Also key in the determination of this appeal is Central Government Guidance contained within Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites. This places a firm emphasis on the need to provide more gypsy sites, supporting self-provision and acknowledging that sites will need to be found in rural areas.

5.3.7 Work on the Local Development Framework is progressing; however there is, as yet, no adopted Core Strategy. Now that the Government intends to abolish the South East Plan, local authorities have the responsibility for setting their own target for the number of pitches to be provided in their areas. The Core Strategy will set the target pitch figure for the Borough for the period 2006 to 2016. The Core Strategy will contain a gypsy and traveller policy to assess any windfall sites.

5.3.8 The Local Development Scheme Priority Documents were considered by Cabinet on 8<sup>th</sup> June. In relation to the Gypsy and Traveller Pitch Allocations DPD, Cabinet agreed to no longer pursue this as a specific DPD but instead to merge it with, and allocate pitches within the overall Land Allocations DPD (under a new title of Development Delivery DPD). (The Land Allocations DPD will allocate the specific sites for residential and non-residential development, as well as dealing with landscape designations and village boundaries).

5.3.9 Issues of need are dealt with below but, in terms of broad principles, Development Plan Policy and Central Government Guidance clearly allow for gypsy sites to be located in the countryside as an exception to the general theme of restraint.

## **5.4 Gypsy Status**

5.4.1 Circular 01/06 defines gypsies and travellers as: “Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of

their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such."

- 5.4.2 I am satisfied that the two Lee families comply with the above definition. They carry out landscaping work and trade in horses which involves travelling to horse fairs. The application documentation includes their father's Romany Guild membership card and photographs which clearly indicate a traveller lifestyle.

## **5.5 Need for Gypsy Sites**

- 5.5.1 Clearly there is a requirement for the Council to provide gypsy accommodation and this is set out in Government Guidance in both PPS3 and in Circular 01/2006. To ensure that the Council provides adequate gypsy accommodation a Gypsy and Traveller Accommodation Assessment (GTAA) was commissioned to assess the level of need for gypsy accommodation.

- 5.5.2 The GTAA concluded that there was a need for gypsy accommodation and quantified that with a figure of 32 new pitches for Maidstone over the five year period from April 2006 to April 2011.

- 5.5.3 However, the pitch requirement revealed in the GTAA assumed that 6 pitches on local authority owned sites across the four authority areas would become available each year through genuine vacancy. For Maidstone Borough, this would assume that 3 pitches/year would become available on the two sites the Council owns totalling 15 pitches over the five years. In fact only 3 genuine vacancies have occurred since April 2006. In the circumstances the overall pitch requirement became 44 pitches for the whole 5 year period.

- 5.5.4 Since April 2006 the following permissions for pitches have been granted (net):

42	Permanent non-personal permissions
9	Permanent personal permissions
8	Temporary non-personal permissions
26	Temporary personal permissions

Therefore a net total of 51 permanent planning permissions have been granted since April 2006.

- 5.5.5 The Council has agreed its public consultation draft pitch requirement for the period 2006 to 2016 for inclusion in the draft Core Strategy as 71 pitches so there is currently a shortfall of 20 pitches.
- 5.5.6 In terms of unauthorised pitches, based on the January 2011 count and according to the Council's database at the time of writing this report, there are 86 unauthorised mobile homes and 69 touring caravans. However, 28 of these mobile homes are 'tolerated' at a large site known as Plumtree Bottom in Stockbury. Here 15 sites were served enforcement notices in 1999 which in effect allow a set number of mobile homes on each plot (total of 34). As such, I consider the number of unauthorised mobile homes is 58.
- 5.5.7 Numerous Inspectors at appeal consider that the level of unauthorised mobiles is an indication of general need; however, I do not consider this to be currently overriding.
- 5.5.8 It is considered that the Council has met the identified need for the period 2006 to April 2011 through the Development Management process. However, the need for pitches continues beyond April 2011.

## **5.6 Visual Amenity**

- 5.6.1 The application site is not located in an area designated for its landscape value and is very well screened by hedgerows to west, north and east which are to be retained as a part of the development. These hedgerows provide good natural screening, in short range views from Stilebridge Lane and from wider views from the A229 to the west and the network of country lanes to the north and east, notably Butt Green Lane and Lower Farm Road. The hedgerows are tall, thick and well established and are of indigenous species. The site already has a barn at its northern end which is quite well screened by the aforementioned vegetation and I see no reason as to why the low level mobile homes, utility rooms, etc. could not be satisfactorily accommodated without having a significant adverse impact on the character of the countryside.
- 5.6.2 As stated earlier, there is already a mobile home and a tourer on site and these caravans are very well screened by the existing hedging on the east and west sides of the land, much of the vegetation in the hedging being significantly taller than the caravans. There are short range views into the site through the access gate but the site is otherwise very well screened. The site would not be an intrusive feature in the countryside from either medium or long distance views.
- 5.6.3 There are other traveller sites on Stilebridge Lane (one authorised close to the junction with the A229; another unauthorised to the south west of this site that is the subject of an undetermined application) but I do not consider that a granting of permission here would lead to an unacceptable over-concentration,



given the spacing between the respective sites and the good natural screening on this site.

## **5.7 Landscaping**

- 5.7.1 As stated above, the mature hedgerows are to be retained as a part of the development. There are no trees of any significance on the site between the lines of hedgerows. In my view there is no need for additional landscaping given the very good screening provided by the existing which could be safeguarded by condition.

## **5.8 Ecology**

- 5.8.1 An ecological scoping survey has been submitted as the site is within 500m of the River Beult SSSI to the south. The report concludes that the site is of negligible ecological interest. The hedgerows have greater ecological value but are unaffected by the development. The KCC Biodiversity Projects Officer agrees with the content of the ecological statement and therefore there are no reasons to object on ecology grounds. She seeks enhancements in terms of the management and improvement of the hedging but I only consider it reasonable and appropriate to safeguard the retention of the hedging.

## **5.9 Residential Amenity**

- 5.9.1 The site has no near neighbours and has no significant adverse impact on residential amenity. The nearest dwelling is approx. 400m away from the proposed siting of the caravans. Given the relative isolation of the site I am not convinced that noise and disturbance from generators and children is so great as to warrant a refusal of this application.

## **5.10 Highways**

- 5.10.1 Kent Highways has no objection. The local highway network is considered acceptable in terms of accommodating the relatively low level of vehicle movements involved. On the issue of access, the point of access to Stilebridge Lane already existed prior to this development commencing and served the agricultural building. The case officer has examined the visibility at the point of access and considers it acceptable to serve the two plots proposed. There is plenty of land available for parking and turning and such areas are properly surfaced in roadstone. The access gates are set back from the edge of the carriageway. I attach an informative to my recommendation reminding the applicants of the need to ensure that vegetation is controlled around the access to Stilebridge Lane to maintain exit visibility.

5.10.2 It is inevitable that gypsy traveller sites will be located beyond the bounds of settlements and within the rural area. In my view this site is not so remote from basic services and public transport opportunities as to warrant objection on the basis that this is not a sustainable location. The A229/Stilebridge Lane junction is only around 600m away to the south west of the site.

### **5.11 Equestrian use and Stables**

5.11.1 The application makes provision for the keeping of horses and the erection of a stable block. It is quite common for gypsies to keep horses and I do not consider that such a use and the erection of a modest stables building would have any significant negative impact on the character, amenity and functioning of the area. The building is small and typical of equestrian structures to be found throughout the countryside: I do not consider it would have any negative impact on the character of the rural area. A condition can be attached to any consent restricting the equestrian use to private stabling.

### **5.12 Other matters**

5.12.1 No particular personal circumstances have been put forward in this application, other than the need for accommodation and the provision of health and education, given the presence of young children. Whilst I give this some weight, in any event I consider the site acceptable for a permanent and 'non personal' permission.

## **6. CONCLUSION**

6.1 The application site is located in an area of the countryside that is not designated for its landscape value. I consider the site very well screened and acceptable in terms of its impact on the character of the rural area. There is no justifiable reason here for a temporary or personal permission and I phrase my recommendation accordingly.

## **7. RECOMMENDATION**

GRANT PLANNING PERMISSION subject to the following conditions:

1. Before works start on the construction of the utility blocks and stables building, full written details of the proposed external materials to be used in those buildings shall be submitted to and approved by the local planning authority;

Reason: In the interests of visual amenity. This in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and Policies CC1 and CC6 of The South East Plan 2009.

2. No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (of which no more than 2 shall be a static caravan or mobile home) shall be stationed on the site at any one time. No caravans shall be stationed on the land to the south of the proposed stables building (i.e. that shown shaded green on approved drawing MAI/10/PL/02 received on 30/9/11);

Reason: To safeguard the character and appearance of the countryside in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000 and Policies CC1 and CC4 of The South East Plan 2009.

3. The hedging down the eastern and western boundaries of the site shall be retained and no trees or plants shall be removed from those hedgerows without the prior written consent of the local planning authority;

Reason: In the interests of visual amenity. This in accordance with Policies ENV6 and ENV28 of the Maidstone Borough-Wide Local Plan 2000 and Policy CC1 and CC4 of The South East Plan 2009.

4. This site is not to be used as a caravan site by any persons other than gypsies and travellers, as defined in paragraph 15 of ODPM Circular 01/2006.

Reason: The site is in an area where the stationing of caravans/mobile homes is not normally permitted and an exception has been made to provide accommodation solely for gypsies who satisfy these requirements pursuant to Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites. This in accordance with Maidstone Borough-Wide Local Plan 2000 Policy ENV28 and The South East Plan 2009 Policies CC1 and CC6.

5. No commercial or business activities shall take place on the land, including the storage of vehicles or materials and livery use;

Reason: To prevent inappropriate development and safeguard the amenity, character and appearance of the countryside in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan 2000.

6. Within 2 months of the date of this decision details of existing and any proposed external lighting within the site shall be submitted for approval in writing by the Local Planning Authority. No further external lighting shall be installed at the site beyond that approved under this condition;

Reason: To safeguard the character and appearance of the countryside in accordance with Policy ENV28.

7. The stable building and equestrian use of land hereby permitted shall only be used for the private stabling and keeping of horses in the ownership of the occupiers of

the lawful residential use of the site hereby permitted and when no longer used for these purposes shall, together with any other related development, be demolished and the resulting material removed from the land to the satisfaction of the Local Planning Authority;

Reason: To ensure that adequate security and supervision is provided for the animals kept on the land in accordance with Policy ENV46 of the Maidstone Borough-Wide Local Plan 2000.

8. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing nos. MAI/10/PL/01, 02, 03 and 04 received on 30/9/10;

Reason: To safeguard the character and appearance of the countryside in accordance with Policy ENV28 of the Maidstone Borough-Wide Local Plan (2000) and Policies CC1 and CC6 of The South East Plan 2009.

#### **Informatives set out below**

The ground level vegetation on either side of the point of access to Stilebridge Lane shall be maintained so that adequate exit visibility is always available.

The proposed development, subject to the conditions stated, is considered to comply with the policies of the Development Plan (Maidstone Borough-Wide Local Plan 2000 and the South East Plan 2009) and there are no overriding material considerations to indicate a refusal of planning consent.